

THUMB ON THE SCALES OF JUSTICE  
**SHORT CASE SUMMARIES**

*Pirolli v. World Flavors, Inc.*

- **Short description:** Plaintiff, a young man with an IQ of 75, claimed that other employees created a hostile work environment and disparate treatment based on sex and disability. According to the plaintiff, coworkers physically assaulted him (including a coworker rubbing his penis against Pirolli's behind and as coworkers watched as another coworker attempted to push a broom pole into the plaintiff's behind). The plaintiff stated that he reported the incidents to his supervisor, but the supervisor failed to hail the harassment.
- **Procedural setting:** The trial court granted summary judgments, on all claims, to the defendants. The trial court dismissed the plaintiff's Title VII and ADA against his supervisor, on the grounds that individuals who are not employers cannot be held liable under those acts. The trial court granted summary judgment for the employer finding that the harassment was "macho horseplay and adolescent rough-housing" that did not constitute discrimination. Pirolli appealed, joined by the Equal Employment Opportunity Commission, which filed an amicus brief siding with him.
- **Appellate ruling:** The Third Circuit reversed the trial court, finding that what Pirolli experienced went beyond ordinary horseplay and constituted "persistent conduct that a reasonable jury could view as having occurred because of his sex and as severe and pervasive enough to create an abusive work environment." The majority concluded that a psychologist's report in conjunction with Pirolli's testimony raised a triable issue of fact.
- **Alito's Dissent:** Judge Alito, however, agreed with the trial court not because Pirolli does not present triable issues but "because th[e] argument is not adequately presented."